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Message Text

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INFO OCT-01 AF-10 ARA-16 EA-11 EUR-25 NEA-10 RSC-01 IO-13

ADP-00 AGR-20 CEA-02 CIAE-00 COME-00 DODE-00 EB-11

FRB-02 H-03 INR-10 INT-08 L-03 LAB-06 NSAE-00 NSC-10

PA-03 AID-20 CIEP-02 SS-15 STR-08 TAR-02 USIA-15

PRS-01 OMB-01 OIC-04 /233 R

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7/23/73 X21114
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R 232130Z JUL 73
FM SECSTATE WASHDC
TO USMISSION GENEVA
INFO AMEMBASSY BRUSSELS
AMEMBASSY BONN
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E.O. 11652: N/A
TAGS: ETRD, US, GATT, EEC
SUBJECT: DISC - JULY COUNCIL MEETING
REF: GENEVA 3272

1. CONCUR WITH MISSION RECOMMENDATION THAT U.S. AGREE TO CONSIDERATION OF ART. XXIII:2 COMPLAINTS OF BOTH EC AND U.S. BY PANELS MADE UP OF IDENTICAL MEMBERS, PROVIDED THAT AGREEMENT CAN BE REACHED ON THE FOLLOWING ESSENTIAL POINTS.

A. THAT PANEL MEMBERSHIP INCLUDE ONE OR MORE TAX EXPERTS AS FULL MEMBERS;

B. THAT DISC COMPLAINT BE CONSIDERED FIRST;

C. THAT THE U.S. WILL HAVE THE RIGHT TO RAISE TAX PRACTICES OF OTHER COUNTRIES (IN ADDITION TO FRANCE, BELGIUM AND NETHERLANDS) DURING CONSIDERATION OF THE DISC AS AN AID TO THE INTERPRETATION OF THE OBLIGATIONS OF PARTIES SIGNATORY TO ARTICLE XVI:4;

D. THAT THE U.S. WILL HAVE RIGHT TO CONSIDERATION OF ITS COMPLAINTS AGAINST EUROPEAN TAX PRACTICES BEFORE ANY FINDINGS OR RECOMMENDATIONS WITH RESPECT TO THE DISC COMPLAINT ARE REPORTED BY PANEL TO THE COUNCIL. WE CONTEMPLATE THAT THE U.S. WILL BE ADVISED, AT LEAST INFORMALLY, OF PANEL'S PRELIMINARY CONCLUSIONS AS TO CONSISTENCY OF DISC WITH GATT PROVISIONS BEFORE THE U.S. PROCEEDS WITH ITS COMPLAINTS. WHILE SUCH ADVICE WILL FALL SHORT OF FINAL PANEL RECOMMENDATIONS, IT WOULD ASSIST THE U.S. IN SHAPING ARGUMENTS FOR ITS COMPLAINTS AND WOULD HELP OVERCOME LOGICAL PROBLEM OF ATTACKING EUROPEAN TAX PRACTICES SIMILAR IN EFFECT TO DISC.

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MISSION SHOULD USE ITS JUDGMENT AS TO WHETHER THESE U.S. OBJECTIVES MIGHT BE BETTER OBTAINED THROUGH NEGOTIATIONS WITH THE EC PRIOR TO THE COUNCIL MEETING. WHENEVER RESPONSE IS MADE TO THE EC POSITION, EITHER BY CHOICE OR IF PRESSED, MISSION SHOULD UTILIZE U.S. AGREEMENT TO ACCEPT PANEL CONSIDERATION OF THE COMPLAINTS AS A TRADE-OFF TO OBTAIN ADVANTAGEOUS TERMS FOR THE CARRYING OUT OF SUCH PANEL INVESTIGATIONS.

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2. AGREE THAT COMPOSITION AND CHAIRMANSHIP OF THE PANELS SHOULD BE DEALT WITH BY THE COUNCIL CHAIRMAN AND THE PARTIES DIRECTLY CONCERNED FOLLOWING THE COUNCIL MEETING.

3. ANY TERMS OF REFERENCE ESTABLISHED AT COUNCIL MEETING SHOULD BE AS GENERAL AS POSSIBLE AND SHOULD PERMIT (WITHOUT STIPULATION) ATTAINMENT OF ABOVE-MENTIONED OBJECTIVES.

4. A SUGGESTED U.S. STATEMENT TO BE GIVEN AT THE COUNCIL MEETING IS BEING PREPARED AND WILL BE TRANSMITTED SHORTLY. THE STATEMENT WILL PUT ON RECORD U.S. UNDER-STANDING AS TO TERMS OF PANEL INVESTIGATION. IN ADDITION, A LIST OF POSSIBLE TAX EXPERTS WILL BE FORWARDED IN CASE THE U.S. IS PRESSED, EITHER AT OR BEFORE THE COUNCIL MEETING, TO COME FORWARD WITH POSSIBLE PANEL MEMBERS HAVING TAX EXPERTISE. ROGERS

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 23 JUL 1973
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: morefirh
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1973STATE144469
Document Source: CORE
Document Unique ID: 00
Drafter: MRSANDSTROM
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: n/a
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1973/newtext/t19730716/aaaaalei.tel
Line Count: 132
Locator: TEXT ON-LINE
Office: ORIGIN TRSE
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators:
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 73 GENEVA 3272
Review Action: RELEASED, APPROVED
Review Authority: morefirh
Review Comment: n/a
Review Content Flags:
Review Date: 19 SEP 2001
Review Event:
Review Exemptions: n/a
Review History: RELEASED <19-Sep-2001 by freemaal>; APPROVED <30-Oct-2001 by morefirh>
Review Markings:

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Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: DISC - JULY COUNCIL MEETING
TAGS: ETRD, US, GATT, EEC
To: GENEVA
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

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